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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 May 1996, at 3 p.m.

Chairperson: Mr. CEAUSU

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The meeting was called to order at 3.10 p.m.

RELATIONS WITH UNITED NATIONS ORGANS AND OTHER TREATY BODIES (agenda item 6)

1. The CHAIRPERSON stressed the importance of cooperation with other bodies regarding approaches to the consideration of human rights issues and invited Mr. Eide, the Chairperson of the Sub-Commission's Working Group on Minorities, to take the floor.

2. Mr. EIDE (Chairperson, Working Group on Minorities) said that the Working Group's mandate was based on the Universal Declaration of Human Rights but related specifically to persons belonging to national, ethnic, religious and linguistic minorities. The Declaration on the Rights of Minorities formulated by the Group had been adopted by the General Assembly on 18 December 1992. Since the work of the United Nations was often interrelated, it would be mutually beneficial for the Working Group and the Committee to exchange experience.

3. The Working Group had three main tasks: to review the promotion and practical realization of the Declaration on the Rights of Minorities; to examine possible solutions to problems of mutual understanding between and among minorities and Governments; and finally, to recommend further measures for promulgating minority rights.

4. In its dialogue with reporting States, the Committee on Economic and Social Rights had already initiated and should further strengthen its examination of issues relating to articles 11-15 of the International Covenant on Economic, Social and Cultural Rights in so far as they concerned minorities.

5. When members of a particular minority were in an economically weak position, temporary affirmative action should be taken to ensure that they enjoyed economic and social rights on a basis of equality with the majority. Vulnerable racial or ethnic groups should be monitored through the periodic collection of statistical information comprising economic and social indicators.

6. Article 2, paragraph 2, of the Declaration on the Rights of Minorities stated that persons belonging to minorities had "the right to participate effectively in cultural, religious, social, economic and public life"; the Committee should address those matters in its dialogue with Governments. The Committee should also give due attention to article 4, paragraph 5, and article 5 of the same Declaration. Some Governments wished to limit their definition of the term "minorities" to citizens, while others included non-citizens. In both cases, it was important to determine how economic and social rights should be applied to non-citizens.

7. With regard to civil and political rights, only the right to vote, be elected and have access to public office could be restricted to citizens The right to return to one's own country - the country of citizenship rather than residence - could never be restricted. Although a general provision in

article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights related to non-discrimination, elsewhere it was stated that developing countries might determine to what extent they guaranteed economic rights to non-nationals. What was the Committee's interpretation of the latter provision? Furthermore, was article 15 understood to accord minorities the right of asserting their own culture? The Working Group was anxious to keep abreast of the Commission's activities regarding subjects of common concern.

8. The CHAIRPERSON pointed out that if the reporting Government did not include relevant information on its treatment of non-citizens and the economic, social and cultural rights they enjoyed, the Committee invariably submitted supplementary written questions prior to the session.

9. A distinction was no longer usually made between developed and developing countries regarding the range of economic and social rights accorded to non-citizens. All countries were interrogated on that point.

10. Regarding minorities, the Committee was concerned mainly with the rights of indigenous populations and ethnic groups in Latin America and Europe. Detailed information was always sought regarding those groups' right to education, culture, housing and social welfare with a view to ensuring that they enjoyed adequate living conditions and could preserve their linguistic and cultural identity.

11. Mr. TEXIER said that groups legally considered to be "minorities" had sometimes actually constituted a numerical majority, as in South Africa under the apartheid system; hence the need for a clearer definition of the term "minority". Closer collaboration on such a definition and a definition of the content of particular rights would be welcome.

12. Nowhere had the rights of persons "illegally" present on a country's territory been properly regulated. European policies regarding clandestine immigrants and refugees were hardly satisfactory. All too often, the latter were not accorded constitutional rights, especially the right to work.

13. Mr. KOUZNETSOV queried whether the subject of a right, such as the right to self-determination, should be defined before the details of its content were drafted, or vice versa.

14. Mr. WIMER ZAMBRANO asked Mr. Eide what cultural, ethnic or other criteria his Working Group applied to migrant workers. States with large numbers of such workers needed to know if they were to be considered a minority.

15. Mrs. BONOAN-DANDAN pointed out that in the Philippines "minorities" were in the majority since there were at least 110 different ethnic or linguistic groups. A technical definition must be established to ensure that "minority" would no longer be used casually in United Nations language. Women and children could also be said to form another subgroup within the minority group of non-citizens. Nobody should be excluded from the protection of the Covenant.

16. Mrs. JIMENEZ BUTRAGUEÑO emphasized the importance of establishing links with the Working Group on Minorities. She agreed with Mr. Eide that it was important to collect statistical data with a view to comparing the situation of minorities with that of the population as a whole.

17. Mr. EIDE (Chairperson, Working Group on Minorities) said that although the Working Group was aware that women and children were often in particular jeopardy, it did not consider them a minority as such. It had not yet resolved the issue of non-citizens. However, provision had been made in article 27 of the International Covenant on Civil and Political Rights to ensure that minimum rights of minorities were enjoyed by non-citizens.

18. The right to self-determination was the subject of much controversy and required elucidation. Content in some cases constituted the right to political independence or "external self-determination". In United Nations practice, the right to independence had almost invariably been limited to non-self-governing territories in the process of decolonization. The subject of the right to self-determination had tended to be the population of a given territory rather than an ethnic group as such. The Committee on the Elimination of Racial Discrimination had recently interpreted self-determination as a group's entitlement to develop its own culture while still respecting the State's territorial integrity. The Working Group had not yet agreed upon its own interpretation; however, minorities must not use the Declaration as a basis for any activity contrary to the purposes and principles of the United Nations.

19. As to countries where it was difficult to determine which groups constituted the minority, the Working Group was above all concerned with those in a "minority situation", where they were demographically outnumbered or where one particular group was marginalized by a coalition.

20. Mr. GRISSA asked whether self-determination should be confined within the limits of existing States.

21. Mr. EIDE (Chairperson, Working Group on Minorities) said that a unilateral right to self-determination under international law was applicable only to non-self-governing territories, although that did not preclude a reciprocal understanding between groups, as in the case of the former Soviet Union. Self-determination involved the unilateral right of one ethnic group within a sovereign State.

22. Mr. WIMER ZAMBRANO emphasized the need for collaboration with the Working Group on Minorities on migrant workers.

23. The CHAIRPERSON thanked Mr. Eide. The Committee looked forward to more cooperation with him.

24. Mrs. BONOAN-DANDAN said that the Convention on the Rights of the Child was the most widely accepted human rights treaty in history, having been ratified by 186 State parties in only six years. At its eleventh session held in Geneva in January, the Committee on the Rights of the Child had examined the reports of eight States parties. It had noted the following main points in the course of its examination.

25. In Yemen traditions and customs contrary to the principles and provisions of the Convention persisted. The Government of Mongolia had made children a priority, despite the country's difficult period of political and economic transition, which had aggravated the situation of many children. Regarding the Federal Republic of Yugoslavia (Serbia and Montenegro), there was concern about the plight of Albanian-speaking children in Kosovo, problems threatening the health-care system, and the abuse of children and teachers by police. The Committee also noted a worrying lack of pluralism in the major media and the failure to resolve the problem of statelessness. The Government had refused to send representatives to assist in the examination of its report. Iceland had established the office of Children's Ombudsman, to increase public awareness of the rights of the child, and an Accident Prevention Council. The Republic of Korea had developed a National Plan of Action for Children in conjunction with its seventh five-year social and economic development plan and had recently established a National Committee on the Rights of the Child. The Government of Croatia had been raising public awareness of the rights of the child and had decided to prosecute instigators of crimes against children and other persons during and after "Operation Storm" (August 1995), and to provide safe conditions for returnees. Croatia, however, lacked an adequate monitoring mechanism for the various areas covered by the Convention. The Government of Finland had made advances in law reform and had enshrined human rights and the rights of the child in the 1995 amendments to the Constitution. The country's difficult economic situation had adversely affected children.

26. Mrs. JIMENEZ BUTRAGUEÑO referring to the work of the Committee on the Elimination of Discrimination against Women (CEDAW) and reviewing implementation of the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, observed that gender equality was the Convention's basic postulate and non-discrimination in respect of women its basic aim. As of August 1995, it had been ratified by 143 countries, albeit with a greater number of substantive reservations than any other treaty.

27. The Committee's report on its fourteenth session in 1995 indicated that it had considered the reports of 13 States parties, in addition to a special report requested from Croatia in connection with what the Committee was doing to combat violence against women in the former Yugoslavia, as part of an overall effort, as urged by the Special Rapporteur on violence against women appointed by the Commission on Human Rights, to gather data on the problem in general and on the measures taken by Governments to combat it.

28. At its fifteenth session in 1996, the Committee had considered 14 reports from 8 countries - Cyprus, Paraguay, Iceland, Ethiopia, Cuba, Belgium, Hungary and Ukraine - and a special report from Rwanda. It had expressed various concerns about the situation of women in the Turkish-held part of Cyprus and in Paraguay. It had also received offers of cooperation from both the United Nations Development Fund for Women (UNIFEM) and UNDP in implementing the commitments made at the Fourth World Conference on Women in Beijing.

29. As to the methods of work of CEDAW, it had thus far made 22 recommendations or suggestions under article 21 of the Convention, akin to their own Committee's general comments but somewhat briefer and more specific. Suggestion 7, for instance, had dealt with the elaboration of an additional protocol as one of its priorities. Since its tenth session, CEDAW had

established the practice of publishing general recommendations as well, based on information provided by States parties in their reports and by NGOs, on specific topics in the Convention, and on what it termed "cross-cutting issues", such as violence against women, the family and political participation. The policy of making concluding comments as part of the consideration of each State party report, introduced at its thirteenth session in 1994, had proven difficult because of the brevity of its sessions; and the Committee had decided at its fourteenth session to transmit them individually to States parties after each session.

30. It was the practice of CEDAW to establish permanent working groups, which were useful in expediting and rationalizing work and distributing it among the members of the Committee. To date, two such working groups had been established: Working Group I, to study the most appropriate ways of expediting the work of the Committee; and Working Group II, to formulate suggestions and recommendations under article 21 of the Convention and prepare statements to be presented at international conferences and other United Nations meetings. At the latest session, Working Group I had, for instance, proposed draft decisions on revision of the rules of procedure, on better coordination with other human rights bodies, and on practice with respect to information received from NGOs and their participation in meetings. Working Group II had proposed draft general recommendations on women in public and private life, on article 7 of the Convention and on the crucial question of the participation of women in the centres of power and decision-making.

31. United Nations specialized agencies were invited to attend the meetings of CEDAW; ILO and UNESCO did so regularly. At the fourteenth session, a joint CEDAW-UNESCO statement on education to promote a culture of equality had been adopted for presentation at the Beijing Conference. Some NGOs also attended meetings or sent communications.

32. Mr. KOUZNETSOV, referring to the reports of the Human Rights Committee on its fifty-second and fifty-fourth sessions, said that by mid-1995 131 States parties had ratified the International Covenant on Civil and Political Rights, 84 had signed the First Optional Protocol and 28 the Second Optional Protocol.

33. The Human Rights Committee's methods of work were practically identical to the Committee's own. Of particular interest were two decisions taken by the Human Rights Committee at its fifty-second session that reflected their own Committee's established practice: to send a firm note to States parties immediately when reports were overdue more than five years; and to ask States parties whose reports had indicated serious human rights violations to allow the Committee to send a mission to the country. Also, the Human Rights Committee had decided to have its pre-sessional working group obtain oral information as a matter of course from other human rights bodies for transmission to the plenary Committee at the regular session.

34. The Human Rights Committee had amended its guidelines to require States parties to include information on anything affecting the equal enjoyment of civil and political rights by women. It was in the process of elaborating procedures to prevent human rights violations; perhaps their own Committee should consider doing that. The Human Rights Committee, on the basis of the

complex legal arguments set out in its latest report, had decided not to continue work on a third optional protocol relating to the right to a fair trial. At its fifty-fourth session, it had considered 15 State party reports.

35. It should perhaps be noted that in its report on that session the Human Rights Committee had asserted that it had the primary role among the human rights treaty bodies, a surprising statement in view of the fact that in recent years all the treaty bodies had been stressing the equal importance of their respective roles.

ORGANIZATION OF WORK (agenda item 2)

36. The CHAIRPERSON invited members to consider the desirability of revising the Committee's guidelines in the light of three documents before them: two informal secretariat documents on the implications for the Committee's programme of work of the World Summit for Social Development, the Beijing Declaration and Programme of Action, and the recommendations of the 6th meeting of persons chairing the human rights treaty bodies concerning gender issues; and the report of an expert group meeting organized by the Centre for Human Rights and UNIFEM and chaired by Mrs. Bonoan-Dandan, on the integration of gender perspectives into United Nations human rights activities and programmes in general.

37. Mr. GRISSA, supported by Mr. KOUZNETSOV, proposed that discussion of such a vital issue should be postponed until members had studied the three documents and given the matter much more thought.

38. Mr. TEXIER, supported by Mr. AHMED, advised caution in amending the current guidelines, which were quite effective and probably needed altering in only a few details, if at all. The original guidelines had been revised once on the basis of painstaking work done by Mr. Simma; he should be closely involved in any new revision, for which there was no urgent need.

39. The CHAIRPERSON suggested that the two members who had recently attended the Beijing Conference could perhaps be asked to review the guidelines and draft preliminary suggestions for improving them from the gender perspective.

40. Mrs. BONOAN-DANDAN said that she would indeed be willing to collaborate with Mrs. Jimenez Butragueño on a working paper to be submitted to the Committee at the next session. The Committee had been the first to incorporate a gender perspective into its guidelines and had been widely commended for that action. She assured members that, in working with Mrs. Jimenez Butragueño there would be no attempt to revamp the guidelines but merely to give more emphasis to gender issues. They would certainly work closely, upon his return, with Mr. Simma, who was the real expert in the matter, and they would of course consult with all other members.

41. Mrs. JIMENEZ BUTRAGUEÑO said that she too would be glad to work with Mrs. Bonoan-Dandan after consultation with Mr. Simma, on a draft for the few details in the guidelines that bore improvement from the gender standpoint. The matter of revision naturally needed careful thought.

42. The CHAIRPERSON, speaking in his capacity as country rapporteur in the pre-sessional working group, said that suggestions could also be made on how to make the guidelines more effective in the light of the Committee's repeated experience with States parties who were insufficiently familiar with them.

43. He took it that members wished to peruse the three documents already before them in order to make any specific suggestions they might have at the next meeting, and to entrust the preparation of a subsequent working paper to Mrs. Bonoan-Dandan and Mrs. Jimenez Butragueño.

44. It was so decided.

The meeting rose at 4.50 p.m.